THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10020 OF 2002

Dated: 27th September, 2005

Between:

Sri Rooplal Shah …Petitioner

A N D

1. The Chief Commissioner of Land Administration/ Appeals, Nampally, Station Road, Hyderabad and Another.

…Respondent

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10020 OF 2002

ORDER:

1. This writ petition has been filed by Rooplal Shah assailing the order of the Commissioner of Appeals, office of the Chief Commissioner of land Administration, A.P. Hyderabad passed in Appeal Refer No. 410/82, dated 16-10-2000.

2. The case of the petitioner in brief is he filed a statement under Section 6(1) of the Urban Land Ceiling Act, detailing the lands held by him. As per the statement, the lands held by him which come within the purview of the Act are :

Item Village Extent in

Building vacant land Ward No. Sq. Mtrs.

Pl.No. S.No. T.S.No. Locality

1. Dwelling Unit 5-9-35/3A 390.00

Bashirbagh

2. –do- 1-11-89 1920.00

Begumpet

3. Vacant land S.No.76 7100.00

Erragadda

4. –do- S.No. 984 4552.36

Kukatpally

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Total Sq. Meters 13,962.36

3. He filed objections to the verification report and to draft statement under Section 8(1) of the Act, dated 15-10-1981. He took a plea in the objection petition that he sought for exemption of land, which has been conveyed to the society, under Section 20 of the Urban Land Ceiling Act. The relevant portion in the objections raised by the petitioner to the draft statement prepared under Section 8(1) of the Urban Land Ceiling Act needs to be noted and it is thus:

> *"Regarding the vacant land in Survey No. 76, Erraguda, Fatehnagar village, Hyderabad West, A.P., I have got a half*

share in it and the extent mentioned in the draft statement towards my share is 3988 square meters. There is no dispute with regard to the measurements. But, in respect of this property I have entered into an agreement to sell on 9th November, 1980 with Sri Balaji Co-operative Housing Society, Fatehnagar, Hyderabad. The agreement has been entered into keeping in view the gudelines issued by the Government in G.O.Ms. No. 4270 dated 10-9-1980. An application under Section 20of the Act for exemption together with the necessary documents has been filed with the Government of Andhra Pradesh, after the agreement was entered into which are already on records. Orders on the said application are expected shortly. The purchasers Society has paid the part of the price and has been put in possession of the said property in part performance of the agreement to sell. Copies of the agreement and other documents have already been filed along with the application for exemption. In the circumstances, it is requested that this property should also be excluded from my holding.

Regarding the vacant land bearing Survey No. 984 Kukatpally village, measuring 2 acres 10 guntas, I have got half a share in it and the area shown as belonging to me viz., 4522.36 square meters is not disputed. This is an agricultural land".

4. The Competent Authority after taking into consideration of the objections and on hearing the petitioner found him holding 4522.36 square meters of excess land. Accordingly, final statement under Section 9 of the Act came to be issued. Assailing the order of the Competent Authority, he filed an appeal before the Commissioner of Appeals. The Appellate Authority on hearing the parties on considering the material brought on record, did not find any ground to interfere with the order passed by the competent authority and thereby dismissed the appeal by order dated 16-10-2000. Hence, this writ petition.

5. The learned counsel for the petitioner submits that the application filed by the petitioner under Section 21 of the Urban Land Ceiling Act seeking exemption has been pending and therefore, the order impugned in the writ petition is liable to be set aside. He strenuously contends that the Competent Authority and the Appellate Authority are not justified in proceedings to decide the surplus holding of the declarant pending consideration of his application filed under Section 21 of the Urban Land Ceiling Act.

6. The learned Government Pleader for Assignment submits that the petitioner filed

application under Section 20 of the Urban Land Ceiling Act seeking exemption and the said application has been rejected and he did not plead of claiming exemption under Section 21 of the Act before the Competent Authority.

7. It is explicit from the order passed by the Competent Authority that the petitioner claimed exemption under Section 20 of the Urban Land Ceiling Act. It is no more in dispute that the exemption sought for by him under Section 20 has been rejected. To claim exemption under Section 21 of the Act, a separate procedure has been prescribed under the Rules. He has to submit application in form –V giving details. He has not pleaded before the competent authority that he has filed such an application seeking exemption. Therefore, the contention of the learned counsel for the petitioner that the Competent Authority as well as the Appellate Authority committed error in declaring the petitioner as surplus land holder, pending consideration of his application under Section 21(a) of the Urban Land Ceiling Act is not sustainable. In the result, I find that the writ petition is devoid of merits.

8. Accordingly, the writ petition is dismissed. No order as to costs.

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B.Seshasayana Reddy,J

27th September, 2005.

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